

REMARKS

This is a full and complete response to the Office action dated September 13, 2006.

All comments and remarks of record are herein incorporated by reference. Applicant respectfully traverses these rejections and all comments made in the Office action. Nevertheless, in an effort to expedite prosecution, Applicant provides the following remarks regarding the cited references.

DISPOSITION OF CLAIMS

Claims 9-28 are pending in the Application. Claims 9 and 24 have been amended with support found in the application on page 3, lines 1-5. New claim 28 recites a molecular weight of 500,000 and a vinyl content of 40% which is supported in the application on page 11, lines 6-8. No new matter is added.

REJECTION UNDER 35 USC §112

Claims 9-12, 14-19 and 24-27 stand rejected under 35 USC §112, first paragraph for non-enablement. Applicants respectfully traverse this rejection.

The Examiner alleged that while the specification is enabling for an apparent molecular weight of 310,000 to 380,000 and 500,000, a vinyl content of 10-80% and 8%, it does not reasonably provide enablement for an apparent molecular weight of 380,001 to 499,999 and a vinyl content of 9%.

Applicants have amended claim 9 to recite a vinyl content of 10% to 80% as well a molecular weight of the complete block copolymer in the range of 310,000 to 380,000. Applicants have also amended claim 24 to recite a vinyl content of 30% to 60% as well as an apparent molecular weight of the complete block copolymer in the range of 310,000 to 380,000.

As the Examiner has indicated that the specification is enabling for a molecular weight range of 310,000 to 380,000 and a vinyl content of 10 to 80 %, Applicants

respectfully submit that the above mentioned rejections are no longer applicable and request withdrawal of the same.

REJECTION UNDER 35 USC §103

Claims 9-12, 14-19 and 24-27 are rejected under 35 USC §103(a) as being unpatentable over **Fujiwara et al.**, US 6,833,411 (“**Fujiwara**”). Applicants respectfully traverse this rejection.

The Examiner alleges that the declaration of Mr. Korenstra is not commensurate with the newly claimed molecular weight range. The Examiner alleged that there is no proof that the claimed block range of 380,001 to 500,000 has ever been made and blended with bitumen.

As amended claims 9 and 24 recite a molecular weight range of from 310,000 to 380,000, Applicants respectfully assert that the declaration is commensurate with the scope of the claims. Therefore, Applicants respectfully request that the above mentioned rejection be withdrawn.

Applicants have also added new claim 28 which recites a molecular weight range of 500,000 and a vinyl content of 40%. Support for the claim can be found in Example 6, on page 11, lines 6-8 of the application.

Applicants respectfully assert that **Fujiwara** does not disclose or suggest the vinyl content as recited in claim 28. Instead, **Fujiwara** indicates a vinyl content of “less than 40%.” See **Fujiwara**, column 4, lines 40-43. Therefore, Applicants respectfully assert that not only does **Fujiwara** fail to disclose or suggest the vinyl content as recited in claim 28, but because **Fujiwara** teaches that the vinyl content should be less than 40%, the reference also teaches away from the claimed vinyl content. Applicants respectfully assert that, in view of **Fujiwara**, no prima facie case of obviousness can be established with respect to such claim.

In view of the foregoing, Applicants respectfully request that the above mentioned rejections be withdrawn, and furthermore respectfully assert that the instant claims are in allowable condition.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 14.1437. Please credit any excess fees to such deposit account.

Conclusion

Having addressed all issues set out in the Office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,
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